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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA

15 SANJAY PARIKH, Individually and on Behalf)  
16 of All Others Similarly Situated, )

17 Plaintiff, )

18 vs. )

19 NETFLIX, INC., et al., )

20 Defendants. )

No. 09-cv-00496 MEJ

CLASS ACTION

DECLARATION OF DAVID W. MITCHELL  
IN SUPPORT OF ADMINISTRATIVE  
MOTION TO CONSIDER WHETHER  
CASES SHOULD BE RELATED  
PURSUANT TO CIVIL L.R. 3-12 AND 7-11

1 I, DAVID W. MITCHELL, declare as follows:

2 1. I am duly licensed to practice before all of the courts of the State of California. I am  
3 a member of the law firm Coughlin Stoia Geller Rudman & Robbins LLP. I am counsel for plaintiff  
4 Sanjay Parikh in *Parikh v. Netflix, Inc., et al.*, No. CV 09-0496 MEJ. I submit this declaration in  
5 support of plaintiff Parikh's Administrative Motion to Consider Whether Cases Should Be Related.  
6 I have personal knowledge of the matters set forth herein and can competently testify about them if  
7 called upon to do so.

8 2. Attached hereto as Exhibit A is a true and correct copy of the complaint captioned  
9 *Parikh v. Netflix, Inc., et al.*, No. 09-cv-0496 MEJ, filed on February 3, 2009 in the Northern District  
10 of California and assigned to Magistrate Judge Maria-Elena James. The *Parikh* case is a proposed  
11 class action on behalf of all persons and entities that paid a subscription fee to Netflix, Inc. to rent  
12 DVDs between May 19, 2005 and the present.

13 3. On January 2, 2009, the case captioned *Resnick, et al. v. Walmart.com USA LLC, et*  
14 *al.*, Case No. 09-0002 was filed in this District and ultimately assigned to the Honorable Phyllis J.  
15 Hamilton. The *Resnick* and *Parikh* actions involve all or a material part of the same subject matter  
16 and common defendants, as do a number of other related actions pending in this District, some of  
17 which have already been ordered related to *Resnick*.

18 4. Plaintiff Parikh has not appeared in any other related action currently pending in this  
19 District.

20 5. A stipulation pursuant to Civil Local Rule 7-11(a) could not be obtained prior to the filing  
21 of the accompanying Administrative Motion to Consider Whether Cases Should Be Related because  
22 defendants in the *Parikh* action are in the process of being served and have therefore not yet  
23 appeared in that action.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing  
25 is true and correct. Executed this 5th day of February, 2009, at San Diego, California.

26

27

s/ David W. Mitchell

DAVID W. MITCHELL

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I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 5, 2009.

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### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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## Mailing Information for a Case 3:09-cv-00002-PJH

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